PART VI.

(1) RULES UNDER BOMBAY ACT XI OF 1852, SCHEDULE B., SECTION 10, AND THE BOMBAY SUMMARY SETTLEMENT ACT, VII OF 1863, SECTION 2, CLAUSE 3.

1. An inquiry into the title by which any land held for service is enjoyed may be instituted from time to time by such officer as Government may direct.

2. Lands originally held for service, and which have been continued, or may hereafter be continued under section 15, Bombay Act III of 1874, on condition of payment of a certain portion of the assessment thereof in commutation of service, shall continue to be held in accordance with the terms of the sanads issued or hereafter to be issued, in confirmation of the said commutation settlements.

3. Service lands, in respect of which no such commutation settlement has been effected, and which have been already declared by Government, or by any officer acting under the orders of Government, to be resumable on the demise of certain persons, or on the extinction of certain families or lines of descent, shall be resumed accordingly.

4. Service lands which do not fall under either of the two last rules shall be continued, subject to the provisions of Bombay Act III of 1874, and of any other law for the time being in force relating thereto, to the heirs of the present holders, or in the event of the same being at any time lawfully alienated, to the heirs of the alienees, without restriction as to adoption or female or collateral succession; but such lands shall be resumed in default of any heir in whom, in the ordinary course of descent, the deceased holder's private property would vest, and shall not be liable to be dealt with under the ordinary law for the time being in force relating to intestate property:

Provided that if Government are at any time satisfied that the service in respect of which any such lands are held is no longer performed, or that its performance is no longer necessary, or that for the service performed the remuneration derived from the profits of the enjoyment of such lands is unnecessarily high, or, in the case of service lands to which the provisions of Bombay Act III of 1874 do not apply, if it shall appear that the holder has been guilty of any serious offence or misconduct, Government will, in their discretion, direct either (1) the resumption of such lands, or (2) the continuance of the same, subject to such new conditions as they shall deem fit to impose, or (3) the resumption of a portion of such lands and the continuance of the rest thereof, subject to such conditions as aforesaid.

5. When the sanad issued in confirmation of any service commutation settlement expressly authorizes the alienation or transfer of the service lands, the same shall be continued without question to any

lawful holder thereof on fulfilment of the terms of the sanad. But in every other case contemplated by No. 2 of these rules, and in every case contemplated by Nos. 3 and 4 of these rules, if any land held for service shall at any time be or become alienated contrary to the provisions of Bombay Act III of 1874, or of any other law for the time being in force, or, in the case of land to which the provisions of Bombay Act III of 1874 do not apply, if the same shall be alienated or in any way encumbered without the previous sanction of Government, the said land shall, if Government deem fit so to direct, be forthwith resumed, anything in the said rules to the contrary notwithstanding. (Approved and promulgated by G. R. No. 1364, dated 15th March 1878, R. D.)

RELIGIOUS AND CHARITABLE ENDOWMENTS.

In preventing misappropriation of religious and charitable endowments, the same policy should be pursued in the old provinces to which Bombay Act VII of 1863 and the new provinces to which Bombay Act II of 1863 are applicable.* (G. R. 6411 of 9th November 1876.)

Rules.

1. If the sale of lands held free of assessment for religious and charitable purposes under a decree of the civil court has not yet been confirmed, application should be made to the Subordinate Judge under section 311 of the Code of Civil Procedure to set aside the sale on the ground of material irregularity, and, if the court declines to set aside the sale, an appeal should be made. (Under section 313, the purchaser can apply to have the sale set aside, if the person whose property is purported to be sold had had no saleable interest therein.)

2. If the sale has been confirmed, proceedings should be taken under section 334 of the Civil Procedure Code; but the Collector should not intervene in case of sales under decree of court which are not recent and appear to be "time-barred." In recent and future cases he should intervene as advised by the Legal Remembrancer, and Government will defray the costs in such cases, if necessary.

3. In cases of private sales and alienations not under decree, and of sales under decree "time-barred," it is not desirable that the Collector should bring a suit to enforce the proper application of the endowment; but he should assist, as far as he can, any person who may wish to bring such a suit, and Government will be prepared to consider the propriety, on the Collector's recommendation, of guaranteeing such a suitor the costs of the suit if decreed against him. (G. R. 4908 of 27th August 1875, R. D., and G. R. 6921, of 9th December 1875, R. D.)

*Bombay Act II of 1863, Section 8, clause 3, merely declares the pre-existing common law of this country, that religious endowments, whether Hindu or Mahomedan, are not alienable, though the annual revenues of such endowments may occasionally be pledged for purposes essential to the temple or other institution endowed, but not further or otherwise. (I. L. R., 5 Bom., 393.)

ORDER AS TO JOINT HOLDERS WITH FULL POWER OF ALIENATION OF THEIR RIGHTS UNDER BOMBAY ACT II OF 1863.

Section 11, clause 5, refers to cases of persons holding lands jointly, and in such cases service of notice upon any one of them is made sufficient.

The obvious intention of the Act was to give the Government a right to demand fees or nazrána from any holder who had a power of alienation, whenever that alienation took effect, whether by a transaction *inter vivos*, or by the holder's death. And in this respect the Government is placed by this Act with reference to the holders of land in a position analogous to the position of a lord of a manor to a copyholder tenant under the English law.

The more frequent the alienations are made, and the greater the number of tenants on the court rolls of the manor, the larger is the income of the lord of the manor, and the more valuable is his property.

The object of the Act is to provide for an increase of the Government revenues in consequence "of the change of possession of the land or a part thereof by inheritance or transfer."

It is necessary, therefore, to have the names of the holders entered in the Government books according to the exact amount of land over which they have the power of alienation. (G. R. 1664 of 6th April 1872.)

ADDITIONAL ORDERS AND RULINGS.

Grant of the soil—onus probandi—Partibility.

The grant in jághír or saranjám is very rarely a grant of the soil, and the burden of proving that it is in any particular case a grant of the soil lies very heavily upon the party alleging it. It is for the Government to determine how saranjáms are to be held and inherited; and in cases where the civil courts have jurisdiction over claims relating to saranjáms, in consequence of the non-applicability of the Pensions Act XXIII of 1871, or otherwise, they would be bound to determine such claims according to the rules, general or special, laid down by the Bombay Government. In the absence of such rules, the courts would be guided by the law applicable to impartible property. *Semble* that a saranjám is impartible and on the death of the eldest son descends to his son in preference to his surviving brother. (I. L. R., 6 Bom., 598.)

Construction of Ambiguous words in Grant.

The true sense of such words as "village," "saranjám," ought in every case to be determined by a consideration of all the circumstances, as such words have an almost technical, and therefore an ambiguous, meaning. (Printed Judgments of 1879, p. 14.)

Construction of Grant.

The introduction of the words "as jághír" in a grant to A., B. and his heirs for ever in consideration of the past services of the grantee, was not intended to control the right of alienation inherent in the operative terms of the grant. (I. L. R., 9 Bom., 561.)

Jághír, a life estate.

A jághír must be taken, *primâ facie*, to be an estate only for life, although it may possibly be granted in such terms as to make it hereditary. (I. L. R., 3 Bom., 186.)

Bo. II of 1863, Section 6, Clause 2, a provision for benefit of Government only.

The provision as to the non-recognition of adoption by a civil court relates only to the question of the assessability of lands when raised between Government and a claimant of exemption. Only Government is entitled to take advantage of the provision.

The Inám Commissioner's decision that a village should be continued to the male descendants of the original grantee, regulates the duration of the exemption, and not the enjoyment of it as between the heirs of the original grantee. (I. L. R., 2 Bom., 529.)

Notice must be issued to holders.

Section 7 of Bombay VII of 1863 was intended to protect Government in the event of any mistake having been made in ascertaining the rightful owner to be served with the notice, but was not intended to authorize the Collector deliberately to overlook the rights of holders known by him to be such. Where the Collector believed the peta inámdárs to be holders perfectly independent of the persons to whom notice was issued, and the Collector nevertheless ignored them as persons entitled to demand an enquiry into their title under the Act, it was held that there had not been any summary settlement in respect of the

land in their holding either with any *de facto* or *de jure* holder thereof. (I. L. R., 6 Bom., 247.) Section 28 of Act B. VII of 1863, does not preclude a suit by a person who is not a "holder" in respect of a Summary Settlement. (B. H. C. P. J., 1889, p. 82.)

Sanad cannot be cancelled by Government without assent of all interested.

Where a sanad has been granted under Bombay Act VII of 1863, Government cannot reform it or set it aside without the assent of all parties interested therein. The quit-rent fixed by the sanad is binding alike on Government and the rightful owner, and, if the sanad has been granted through mistake to a person not the rightful owner, the latter may recover the land from the grantee, who will be deemed to have taken the sanad as trustee for the owner. (I. L. R., 4 Bom., 367.)

Grants cannot affect third parties.

The State cannot by its grants destroy rights in the land which are good against itself (Printed Judgments of 1880, p. 279. I. L. R., 4 Bom., 643.)

Inámdár's powers to enhance Rent or enclose Land.

An inámdár's power to enhance the rent of mirási tenant is limited. He cannot demand more rent than what is fair and equitable according to the custom of the country.

Unless the terms of his inám grant authorize an inámdár to enclose a piece of land used immemorially as pasture ground by the inhabitants of his inám village, he cannot do so at will merely by virtue of his being an inámdár. (I. L. R., 3 Bom., 147.)

Inámdar's right to eject Tenants.

The tenants of an inámdár cannot be ejected as mere trespassers. If they are yearly tenants, they are entitled to a clear six months' notice to quit before they can be evicted. If they are tenants for a term of years or for a life or lives, there must be proof of an expiration of the term by efluxion of time or of the falling of the life or lives. (I. L. R., 6 Bom., 70.)

Superior holder cannot distribute liability for Quit-rent among Tenants.

There is no provision in Bombay Act VII of 1863 which enables a landlord or superior holder to distribute the quit-rent among his tenants or inferior holders. (Printed Judgments of 1880, p. 88 : *vide* also I. L. R., 4 Bom., 79, and I. L. R., 6 Bom., 244.)

Enhancement of Assessment no ground for raising fixed Rent.

A superior holder cannot raise the rent of his permanent tenant holding at a fixed rent, on the ground that the assessment on the land has been enhanced at the Government survey. The civil courts cannot relieve the superior holder from the hardship caused to him by this enhancement, and it is doubtful whether Government (except by legislation) can interfere with contracts made by private persons. (I. L. R., 4 Bom., 473.)

Long possession ; evidence of Mirásdárs' title.

Mirásdárs who had sanads and have lost them, and those who never had them, may prove their title by other evidence, and long possession is a strong element in such proof. Perpetuity of tenure may be proved by many means, as for instance, local usage and uniformity of payment of rent or assessment. (I. L. R., 3 Bom., 340.)

Mirasdár relinquishing in favour of another person.

B., a mirásdár, addressed a rájináma to the Mámlatdár, resigning certain miras lands in favour of L. (to whom at the same time he delivered possession of the lands), and containing no reservation or qualification ; *held* that the transfer to L. was complete and the right of B. wholly extinguished. (I. L. R., 1 Bom., 91.)

Mirasdár relinquishing to Collector.

A mirásdár who has given in a rájináma is entitled to eject the tenant put in possession of his mirás lands by the Collector, provided he sue within the period of limitation and the rájináma contain no stipulation whereby he expressly abandons his mirás rights. (I. L. R., 1 Bom., 208. See also p. 577.)

Effect of resumption by Government.

On the resumption of an inám, the inámdár's right to exemption from the payment of the Government assessment ceases, and the inámdár becomes liable to pay such assessment : but all his other rights remain unaffected, and therefore those who were his tenants before the resumption do not cease to be so, and can be ejected, if they are not permanent tenants, or are not otherwise entitled to remain in possession. (I. L. R., 9 Bom., 419.)

In the absence of a contrary intention, the resumption by the British Government of a saranjám or inám leaves the occupancy rights of the saranjámdár or inámdár untouched. A saranjámdár or inámdár may acquire occupancy rights during the continuance of the saranjám or inám. The fact that revenue officers placed the name of a lessee in the Government books as the occupant paying assessment did not make the lessee's possession adverse to the saranjámdár or inámdár and could not prejudice his rights as landlord (I. L. R. 10 Bom. 112.)

Religious and charitable endowments.

The Peshwa, by sanad, granted for the support of the Hindu temple an annual cash allowance out of the Antástha Sadilvár and three khandies of rice out of the Kherij Jamabandi Parbhare to be levied from certain mahâls and forts mentioned in the sanad. Held that the grant was irresumable, inalienable and perpetual. (I. L. R. 6 Bom. 546.)

Sale of right, title and interest of holder of land for temple service.

The property of a temple cannot be sold away from the temple: but there is no objection to the sale of the right, title, and interest of a servant of the temple in the land belonging to the temple which he holds as a remuneration for his service, the interest sold being subject in the hands of the alienee to determination by the death of the original holder or by his removal from his office on account of his failure to perform the service. (I. L. R. 6 Bom. 596.)

Alienation of religious endowment and of land declared to be held for service.

A Hindu religious endowment cannot be sold or permanently alienated, though its income may be temporarily pledged for necessary purposes, such as the repairs, &c., of the temple. A Guru, also Jangám or presiding Lingáyat priest of a Muth, mortgaged two fields in 1863 and died in 1874. In 1882 his successor in office brought a suit to recover possession on the grounds that the mortgage was good only for the life of the mortgagor and that the lands were, under section 8, clause 3, of Bombay II. of 1863, inalienable from the Muth. It appears that in 1862 Government had issued to the mortgagor a sanad declaring the land in dispute his personal inám and continuable for ever as transferable private property subject only to chavthái and nazarána. This sanad was withdrawn in 1888 and another sanad was issued, declaring the land to be service emolument appertaining to the office of the jangám, and stating: "As this vatan is held for the performance of service, it cannot be transferred and in consequence no nazarána will be levied." The nazarána levied under the sanad of 1862 was refunded. It was held that this repayment of nazarána showed that in the opinion of Government a personal inám had been wrongly granted by the sanad of 1862, and there was nothing to show that the decision ultimately arrived at by Government was objected to. After the passing of Bombay II of 1863 it would not have been open to the mortgagor, as it was not open to the mortgagee, to contest that decision in any way, for by section 16, clause (*d*) of that Act it is competent to Government to determine any question as to whether or not any lands are held for service, and the decision of Government, when once made, is final. Since 1868 there could be no question that the lands comprised in the sanad had not been alienable by the jángám of the Muth beyond his lifetime, and as they belonged to a service vatan they were held on a tenure of successive life-estates. After the death of the mortgagor his successor in office was entitled to the whole of the inám land claimed by him. (I. L. R. 10 Bom. 34.)

Summary Settlement where the assessment has been reduced at the Revision Survey.

Memo. by Acting L. R.:—When the quit-rent payable under Bombay VII of 1863, Section 6, Rule 4, in respect of summarily settled alienated land has once been imposed as ascertained by an assessment made by the Revenue Survey, it cannot be affected in any way by any subsequent revision of survey. The rule runs:—

'Quit-rent imposed under this section (section 6) shall not be liable to increase or decrease on any new assessment save in so far as is above in Rule 1 of this section (section 6) provided to the contrary, in the case of lands which have not been already assessed by the Revenue Survey now in progress.'

The Legislature evidently contemplated the possibility of a fall as well as a rise in the assessment on revision, and declared that revision rates should not affect the *quit-rent* once imposed on the assessment.

"2. There are no reasons given for the opinion of the late Mr. Cordeaux quoted in the preamble to Government Resolution No. 8391 of 30th November 1882. Apparently, however, his opinion has reference not to the quit-rent payable under the Summary Settlement Act, but to the judi, salámi or other quit-rent or land-tax 'already paid to Government.' Under section 6, Rule 3, the quit-rent is calculated at one-eighth of the then assessment minus any sum which irrespective of the settlement was payable to Government. This quit-rent could not be affected by revision. But if the sum which was payable irrespective of the summary settlement had been imposed under section 5 of Bombay VII of 1863, (repealed by Bombay V of 1879 and replaced by section 49 of that Act), as a

commuted assessment, such commuted assessment could not be in excess of the assessment to which the land would ordinarily be subject, if no right to exemption existed in respect thereof.

Revision would affect such commuted assessment, it could not affect in any way the quit-rent ascertained under Bombay VII of 1863, section 6, Rule 4.

There is no provision of law which requires *judi* to be reduced to the level of a revised assessment. It is of course competent to Government to allow such a revision as an act of grace. It could not be claimed as of right. (G. R. No. 4733 of 3rd July 1889, Revenue Department.)

Devasthán Lands—Sanads—Consequence of Alienation.

Memo. by Acting L. R.:—(1.) Under Hindu Law devasthán lands are inalienable (Indian Law Report V., Bombay, page 393), but may perhaps be temporarily mortgaged (Indian Law Report IX., Bombay, page 422). The matter does not seem to the affected by Bombay Act VII of 1863. It is true that section 6 says that when the Governor in Council shall under clause 1 of section 2 finally authorize and guarantee the continuance in perpetuity to the holders, their heirs and assigns of land wholly or partially exempt from the ordinary payment of annual land revenue the said lands shall (subject to the enactments contained in section 7) be the heritable and transferable property of the said holders, their heirs and assigns. But this section is qualified by the proviso in section 7: "Provided always that the said rightful owner, his heirs and assigns shall not by this Act or anything therein contained be deprived of any rights or remedies to which he or they would be entitled against the said holder, his heirs or assigns for the recovery of the said lands or any part thereof if this Act had not been passed." The result is that by the application of the summary settlement under Act VII of 1863 the continuance for ever of the exemption from assessment has been guaranteed by Government without regard to the person who may for the time being be in possession. But the rights of persons beneficially entitled to the property are not affected *inter se*. In the case of devasthán lands there may be a good deal of difficulty in deciding who is the real owner, but I think there can be no doubt that the community for whose benefit the temple exists have an interest in the grant which is preserved by section 7 and which gives them power to sue in the proper way for the restitution of the property if diverted to secular uses. The managers for the time being are certainly not the owners. They are mere trustees and the summary settlement does not confer on on them any rights of alienation which they did not before possess.

2. I think in the revised sanads the name of the person who was manager at the time the settlement was accepted should be inserted. The usual way in which I have seen sanads for devasthán land drawn up is in the name of the god with the addition of the manager (*e. g.*, Shri Vithoba, *vahivátdár*). The right to a sanad was complete as soon as the settlement was accepted under section 2, and as it may be difficult to ascertain to whom the right of management may have subsequently passed the safest course will be to enter the name of the manager at that time.

3. I do not think that Government can levy full survey rates from the alienees when devasthán land has been alienated from the institution to which it was granted. According to Hindu Law a grant to a temple is permanent and cannot be resumed (Indian Law Reports VI., Bombay, page 546). And the fact that the managers may have illegally alienated it will not have the effect of making it revert to Government, or justify it in, as it were, participating in the sacrilege by imposing a full assessment on the land. Least of all can this be done in cases to which the summary settlement has been applied. In whatever terms the sanad may have been worded, the effect of section 6 is to guarantee for ever the exemption of the land from assessment wholly or partially as the case may be. In regard to this point I would call attention to Mr. Naylor's opinion No. 757 of 17th November 1875, referred to in Government Resolution No. 6921 of 9th December 1875.

II.—The only thing I think that can be done when the Collector finds that devasthán land has been diverted from its legitimate uses is to take action under section 539 of the Civil Procedure Code with a view to its restoration. No other remedy seems possible in the present state of the law, and probably owing to the difficulty of obtaining accurate information this is not one that can often be resorted to. A Bill for the better administration of the Hindu and Mahomedan endowments was submitted by Mr. Naylor with his letter No. 43 of 15th January 1879, but the proposed legislation was not carried out.

III.—In the above remarks I have referred only to Hindu devastháns. They apply however with equal force to Musalmán Wakf property which by Mahomedan Law is similarly inalienable.

G. R. on above.—With regard to the sanads the safest and simplest course will be to have them made out in the name of the institution, adding the name of the manager with whom the summary settlement was effected, if he is still living, and provided he was the *vahivátdár* at the time of settlement. If he is dead the name of the actual manager should be entered, and the sanad should be handed over to the manager whose name is entered in it. But if the person who would thus be entitled to receive the sanad desires that it be delivered

to some other person his request should be complied with, and where there is a person in possession of the institution and of the property appertaining to it, who is not the manager with whom the summary settlement was effected or his regular successor, and the person in possession claims the sanad against the wish of the said manager or of his regular successor, it should be given to the person with whom the settlement was effected as above shown. In any other case delivery of the sanad should be withheld until the parties obtain a decision in the Civil Courts declaring who is entitled to it. (G. R. No. 6595, 29th September 1887, R. D.)

Collectors to report diversions of devasthán land.

The Collectors throughout the Presidency and in Sind are directed to report for the information of Government any flagrant cases of the diversion of devasthán land from its legitimate uses, which may come to their notice, so that if necessary action may be taken for its restoration. (G. R. No. 7306, dated 26th October 1887, R. D.)

Procedure in cases of Alienation.

RESOLUTION.—Bombay Act II. of 1863 is in force in the Poona District and by section 8, clause 3, of that Act religious endowments, wholly or partly exempted as such from land tax, are declared inalienable. They are equally inalienable where the Act is not in force, for though Bombay Act VII of 1863 contains no such provision as section 8 of Bombay Act II. of 1863, yet religious endowments are in their very nature inalienable. In the case of a religious endowment or public institution no sanad at all is necessary as has been decided by the High Court in the printed judgments* in the case of Manohar Ganesh *vs.* Lakhmirám. A declaratory entry in the Government registers is quite sufficient and any one thereafter interfering with the property assumes the responsibility of a trustee.

2. The Collector may anywhere outside the Presidency Town take steps under section 539 of the Code of Civil Procedure to prevent the fraudulent alienation of land or of revenues constituting an endowment. The simplest course to follow in such a case is to give notice and thereafter exact the full assessment. The possessor who had taken the land by alienation or who declined to fulfil the conditions as trustee of the holding could not take advantage of his own fraud as the Acting Remembrancer of Legal Affairs seems to have thought he could in such a case (*see* Report No. 1117 of 1887, annexed to Government Resolution No. 6595 of 1887.) By taking or giving in alienation, by refusing or omitting to perform the service annexed to the holding, the occupier would have estopped himself from alleging it was sacred property. In the case of land sold in execution this would be specially the case unless indeed the land had been sold under some special circumstances as sacred property—a case that would very seldom occur.

3. In the printed judgment† in the case of Náráyanráo *vs.* Ráji Mahomed, it is pointed out that a Musalmán's duty in relation to a grant for *pir's* tomb is not transferable to a Hindu. Such a transfer therefore would estop the Hindu transferee from setting up any exemption on account of the sacred character of the tenure.

4. In all instances of alienation of religious endowments it is for those who are really interested in the celebration or other continuation of the pious service to come forward and require that it be performed. The Collector's duty is merely to see that an alienation of the public property or revenue is not enjoyed under false pretences. In each case before taking any active measures the Collector should convince himself from such inquiry as he may deem necessary that there is at least *primâ facie* proof that there has been a defeat of the object of the endowment, as by the transfer of a sacred endowment to purely secular hands and purposes. Transfers within a family or priestly class are sometimes allowed, but an alienation to other than sacred uses is not permissible.

5. If the Collector does interfere under section 539, Civil Procedure Code, he should always demand his costs from the defendant and alternatively from the endowment. These costs will in general be only those of taking legal advice and may generally be recovered directly from the relators who appear as plaintiffs in the suit.

6. The general introduction of Act XX of 1863, now in force only in the district of Kánara in this Presidency, would place all these endowments of any consequence in the hands of trustees, and this would perhaps be the best course that could now be adopted. Before, however, taking any action in respect of the extension of the Act to the whole Presidency, Government desire the opinions of the Commissioners and of the Remembrancer of Legal Affairs on the point. (G. R. 2023 of 28th March 1888, R. D.)

Assessment of Devasthán improperly Alienated.

RESOLUTION.—The opinions of the officers whose views have been obtained are divided as to the expediency of bringing into operation in the Presidency generally Act XX of 1863, or a measure framed on the same lines. Two officers (Mr. Candy and Mr. Todd) who have

* Printed Judgments of 1887, p. 169.
† Printed Judgments of 1886, p. 204.

had a long experience of Kánara where Act XX of 1863 is in force are in favour of its extention to the entire Presidency, but owing to the peculiar wording of the Act it possibly might be found difficult to attain the desired end by this simple expedient. There are also many devasthâns the property in which is vested in families or devolves by a series of successions or substitutions regulated by the original constituting document or by prescription. In such cases it would be improper to withdraw the property and management of the endowments from the hands designated by the founders. The proper course would under ordinary circumstances be for Government to control and superintend and prevent waste, but to the adoption of such a procedure objections exist which are insurmountable. Failing this the best course probably would be to provide for the voluntary formation in towns and districts of Committees of Hindus, Mahomedans and members of other religious communities for the purpose of acting as Charity Commissioners over the endowments in which their own communities are interested. These committees should possess visitatorial powers, and a right to recoupment of expenses reasonably incurred in connexion with any institution under their care. They would be appointed by the Collector on his being satisfied that the community desired such an appointment. The control should be left to the Civil Courts so as to keep the administrative body free from all connexion with the endowments. Provision should be made that the appropriation and use of charitable and religious endowments may be varied conformably to their original principles by the Courts in drawing up when necessary improved schemes of management. The Dákor Temple case shows that if the Courts felt free to act they would provide extensively for the beneficial use of sacred funds in the support of schools and dispensaries. On these lines generally the Governor in Council is of opinion that it may be advisable to legislate and the subject will now receive further consideration.

2. In the meantime the concern of Government with the subject from the administrative point of view is to see that if charity and shrines are robbed the public shall not be robbed too by unjust exemptions from land-tax or other impositions, and with this object in view the Collectors should be vigilant and active in exacting the assessment from all property alleged to be tax-free as sacred but held and dealt with in a way incompatible with its alleged sacred character. (G. R. 18 of 4th January 1889, R. D.)